



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable C. S. Clark, Chairman
Board of Water Engineers
Austin, Texas

Dear Mr. Clark:

Opinion No. O-6648

Re: Does a water control and improvement district, created under Chapter 34, Articles 7880-1 to 7880-1472, Vernon's Annotated Civil Statutes, with their various subdivisions, have authority to construct and maintain levees and flood-control projects, and to purchase the necessary rights-of-way therefor, and related question.

Your letter of June 9, 1945, has been given our careful consideration. In said letter you ask the following questions:

"1. Does a water control and improvement district, created under the provisions of Chapter 34, Articles 7880-1 to 7880-1472, V.A.C.S., have authority to construct and maintain levees and flood control projects, and to purchase the necessary rights-of-way therefor. In connection with this question, your attention is directed to Articles 7880-2, 7880-3, and 7880-3a, V.A.C.S.

"2. If you answer the above question in the affirmative, can a water control and improvement district be created in all or any one of the aforementioned counties notwithstanding the existence of the other agencies hereinbefore named? In connection with this question, your attention is directed to Article 7880-4 V.A.C.S."

We have carefully read the Articles referred to in the statutes. They give water control and improvement districts almost plenary powers. Unquestionably, such a district

Honorable C. S. Clark - page 2

organized and created under the provisions of said statutes would have and does have authority to construct and maintain levees and flood control projects, and purchase the necessary rights-of-way therefor. If they did not have these rights, the districts could not, of course, carry out the purposes and objects for which created.

In answer to your second question, Article 7880-4, to which you refer, provides specifically that "a district organized under the provisions of said Chapter" may include the area of any county or counties, or any portion thereof, * * * provided that no district provided for in this Act shall embrace territory situated in more than one county except by a majority vote of the property tax-paying voters residing within the territory in each county sought to be embraced within said district."

Of course, a water-control and improvement district created would be subject to and limited by the rights of any and all other districts or agencies that had been organized or created, and which embraced the land, or any portion thereof, named in the last district created. In other words, the junior district created would not be authorized to curtail, or in any way interfere with prior districts that had been created under and in virtue of said statutes.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Geo. W. Barcus

Geo. W. Barcus
Assistant

GWB-MR

APPROVED JUN 23 1945

Carlisle H. Hiley
FIRST ASSISTANT
ATTORNEY GENERAL

